

Message

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Subject: FW: E&E News: Trump admin sues Fiat Chrysler over excess emissions, 5/23/17

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E&E News

<https://www.eenews.net/greenwire/2017/05/23/stories/1060054994>

Trump admin sues Fiat Chrysler over excess emissions

By Camille von Kaenel 5/23/17

The Trump administration sued Fiat Chrysler Automobiles NV today, accusing the automaker of installing devices on 104,000 diesel vehicles that led to increased air pollution emissions.

The civil complaint, filed in federal court in Detroit, alleges that the software alters how the emission controls perform during tests, resulting in increased emissions of nitrogen oxides (NOx) in normal driving.

The Justice Department is seeking injunctive relief and the assessment of civil penalties.

Automakers are allowed to tweak emission levels using "auxiliary emission control devices" if such action is meant to avoid engine damage, but they must report it to federal regulators. In January, the Obama administration's U.S. EPA issued a notice of violation to Fiat Chrysler for failing to disclose eight devices that led to increased NOx emissions ([Greenwire](#), Jan. 12).

The complaint filed today alleges "one or more" of those devices are not only undisclosed but also "defeat devices," which illegally increase emissions and signal a more serious violation of the Clean Air Act.

In 2015, Volkswagen AG admitted to using defeat devices to deliberately mislead regulators and cheat emissions tests, leading to \$25 billion in buybacks and settlements with drivers, dealers, states and environmental regulators.

Fiat Chrysler has denied it used such devices and said it's working to show EPA the hidden software met all regulations. Those talks continue, EPA said.

About 104,000 Ram 1500 and Jeep Grand Cherokee vehicles (model years 2014-2016) sold in the United States have the devices.

California's top air regulator expressed concern yesterday that the Trump administration may take a soft approach to prosecuting Fiat Chrysler for emission violations.

At issue: which and how many devices would be ultimately found to be "defeat devices."

"I think it's quite likely they will decide to pursue the much less draconian enforcement process ... [which will have] consequences for how we're able to address the harm that's been caused," Mary Nichols, the head of California's Air Resources Board, said at a conference sponsored by UCLA.

"There's a choice about whether to charge that as an unapproved or undisclosed device versus a defeat device, and the penalty different is pretty drastic," Nichols said.

EPA, DOJ and Fiat Chrysler had been in talks for months to determine whether the devices illegally altered emissions levels.

"It's not necessarily easy and straightforward," said John German, the engineer at the International Council on Clean Transportation who helped uncover Volkswagen's defeat devices.

The Clean Air Act's provision on defeat devices is limited to a few sentences. EPA has issued several advisory circulars and letters to manufacturers to clarify what is a defeat device and what is an allowable auxiliary emission control device.

"What it boils down to is if the manufacturer can demonstrate that some sort of damage or safety problem would occur [if not for the auxiliary emissions control device], EPA will say it's OK," German said. "EPA's presumption has always been, it's a defeat device unless you can prove that it's not."

In at least one case identified by EPA, the software on the Fiat Chrysler diesel trucks uses a timer to shut off an emission control device. The disablement "does not appear justified for protecting the vehicle, nor does it meet any of the other exceptions of the defeat device regulatory definition," the agency wrote in January.

Both the ARB and EPA issued notices of violation to Fiat Chrysler, but Nichols did not say whether California would pursue its own legal action against the carmaker.

Reporter Debra Kahn in California contributed.

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